



Savannah River Site Citizens Advisory Board

Recommendation 222

Classified Information Issues In DOE-EM Cleanup Activities at the SRS

Background

Classified information is covert information to which access is restricted, by law or corporate rules, to a particular hierarchical class of people. A security clearance is permission to handle classified documents or class of information and usually requires a satisfactory background check. This sort of hierarchical system of secrecy is used by virtually every national government. The purpose of classification and secrecy is to protect information from being used to damage (or endanger) national security objectives. In the United States, information cannot be classified merely because it would be embarrassing; information can only be classified in relation to protecting national security objectives of the state.

The desired degree of secrecy about such information is known as its sensitivity. Sensitivity is based upon a calculation as to the damage to national security the release of the information would cause. The United States has three levels of classification — confidential, secret, and top secret. Each level of classification indicates an increasing degree of sensitivity — top-secret being the highest, and confidential being the lowest. If one holds a "top-secret" clearance, one is allowed to handle classified information up to the level of "top-secret" (thus, secret, and confidential information). If one holds a "secret" clearance, one may not then handle "top-secret" information, but may handle information classified as "confidential". Generally speaking, within DOE, a "Q" clearance is equal to "top secret", and the "L" clearance is equal to "secret".

In addition to this, information that is classified is often restricted in its dissemination based on the "need to know." In order to have access to classified information in the U.S. government, one must have both the proper degree of classified clearance as well as a need to know the information. Having a "top-secret" clearance does not give one access to all documents classified at that level. Rather, information is released or disseminated based upon its sensitivity level and the need to know.

Comments

Ensuring public access to information that does not require protection is a key to striking the balance between secrecy and the openness that is central to the proper functioning of this country's political and bureaucratic institutions. Skepticism about agency motives can arise from the way in which an agency declassifies and publicly disseminates information. The classification of information by the government is not supposed to be used to prevent information from being made public that would be simply embarrassing or reveal criminal acts.

As the D&D and environmental cleanup projects at SRS move further toward potential classified areas (F-Area, Reactor areas, etc.), the SRS Citizens Advisory Board (CAB) is interested in ensuring public disclosure to the maximum extent possible without jeopardizing national security. To date, SRS has been very forthcoming regarding D&D of facilities which contained or contain classified information. However, language associated with the Federal Facility Agreement (FFA) raises concerns with the SRS CAB. Under the FFA, information, records or other documents shall be available to the public except (a) those identified to EPA or SCDHEC as classified, or unclassified but controlled, within the meaning of and in conformance with the Atomic Energy Act (AEA) or (b) those that could otherwise be withheld pursuant to the Freedom of Information Act or Privacy Act, unless authorized for release by the originating agency.

The SRS CAB believes that an attempt must be made to summarize the non-public information in a way that can be disclosed to the public. DOE's NEPA regulations [10 CFR 1021.340(b)] provide that DOE shall, to the fullest extent possible, segregate any information that is exempt from disclosure requirements, such as classified information, into an appendix to allow public review of the remainder of a NEPA document. If a similar situation arises as part of the D&D or environmental cleanup activities at SRS, the CAB believes that unclassified summaries and redacted versions of classified documents should be provided to allow public and regulatory agency review of information to the

fullest extent possible but without degrading national security.

The SRS CAB is concerned about the manner in which security clearances are granted to the regulators, EPA and SCDHEC. For example, both have staff with "L" or "Q" clearances. However, some of their line supervision do not, including top-level management. The SRS CAB believes that such an arrangement does not permit proper management control by the regulators of D&D and environmental cleanup activities involving classified information.

Recommendation

The SRS CAB recommends that:

1. By January 26, 2006, DOE describe the unclassified format it will use to disseminate D&D and cleanup information containing potentially pertinent, but classified details to the general public.
2. By this same date, DOE provide a list of future D&D and environmental cleanup projects that may have classified information associated with them and discuss if such information might have a potential impact on cleanup schedules and area closures.
3. By this same date, the regulatory agencies (EPA-IV and SCDHEC) present to the SRS CAB how such classified information is being and will be disseminated to facilitate proper management review of SRS D&D and cleanup projects. Of particular interest is how are uncleared directors, bureau chiefs, and others in the direct management line made aware of significant or pertinent classified information, which is known and managed by cleared staff members under them.

Agency Responses

[Department of Energy-SR](#)
[DHEC Response](#)
[EPA Response](#)